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11 Attorneys for Defendant
12 BRK BRANDS INC.

13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN JOSE DIVISION**

16 SAN FRANCISCO TECHNOLOGY INC.,

17 PLAINTIFF,

18 V.

19 AERO PRODUCTS INTERNATIONAL
20 INC., BP LUBRICANTS USA INC., BRK
21 BRANDS INC., CALICO BRANDS INC.,
22 COOPER LIGHTING LLC, DAREX LLC,
23 DEXAS INTERNATIONAL LTD., DYNAGRO
24 NUTRITION SOLUTIONS, FISKARS
25 BRANDS INC., GLOBAL CONCEPTS
26 INC., HOMAX PRODUCTS INC.,
27 KIMBERLY-CLARK CORPORATION,
28 KRACO ENTERPRISES LLC, LIXIT
CORPORATION, MEAD WESTVACO
CORPORATION, NUTRITION 21 INC.,
OATEY Co., OPTIMUM TECHNOLOGIES
INC., NEWELL RUBBERMAID INC.,
SCHICK MANUFACTURING INC., THE
SCOTTS COMPANY LLC, STERLING
INTERNATIONAL INC., VITAMIN
POWER INCORPORATED,
WOODSTREAM CORPORATION, 4-D
DESIGN INC.,

29 DEFENDANTS.

30 No. 5:10-cv-02994 JF

31 **STIPULATION AND [PROPOSED] ORDER**
32 **REGARDING SEVERANCE OF CLAIMS**
33 **AGAINST BRK BRANDS, INC.**

34 Judge: Hon. Jeremy Fogel

35 Complaint Filed: July 8, 2010

36 CBM-SF\SF487964

37 **STIPULATION AND [PROPOSED] ORDER REGARDING SEVERANCE OF CLAIMS AGAINST BRK BRANDS, INC. (NO. 5:10-CV-02994 JF)**

1 Plaintiff San Francisco Technology Inc. and Defendant BRK Brands Inc. ("BRK"),
2 by and through their undersigned counsel, agree and stipulate as follows:

3 WHEREAS San Francisco Technology, Inc. brought the instant action against 25
4 defendants, including defendant BRK, alleging that the defendants falsely marked their products
5 with expired patents and seeking recovery pursuant to 35 U.S.C. § 292;

6 WHEREAS this Court has previously been assigned the action *San Francisco*
7 *Technology, Inc.*, brought against some 20 other defendants, which case was originally styled *San*
8 *Francisco Technology, Inc. v. The Glad Products Company et al.* Case No. 10-CV-00966 JF (the
9 "Glad Products Action");

10 WHEREAS this Court ordered each individual defendant named in the Glad Products
11 Action who had not requested transfer severed into a separate action pursuant to Federal Rule of
12 Civil Procedure 21, and, further, ordered the Clerk to open new case numbers for each such action
13 and assign such action to Judge Fogel (*San Francisco Technology, Inc. v. The Glad Products*
14 *Company et al.* Case No. 10-CV-00966 JF, Order re: Pending Motions, July 19, 2010 (Docket
15 No. 315)),

16 WHEREAS San Francisco Technology, Inc. and BRK agree that San Francisco
17 Technology Inc.'s claims against BRK should be severed into a separate action pursuant to
18 Federal Rule of Civil Procedure 21, that such action should be assigned a new case number, and
19 that such action should remain assigned to the Honorable Judge Jeremy Fogel;

20 The Parties respectfully request that the Court issue an order providing that

21 (1) San Francisco Technology Inc.'s action against BRK shall be severed from the
22 claims pending against other parties herein pursuant to Federal Rule of Civil Procedure 21;

23 (2) The Clerk shall open a new case number for an action styled *San Francisco*
24 *Technology, Inc. v. BRK Brands, Inc.*;

25 (3) Such new case shall be assigned to the undersigned judge, the Honorable Jeremy
26 Fogel.

27 **IT IS SO STIPULATED.**

1 Dated: September 9, 2010

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8 CARROLL, BURDICK & McDONOUGH LLP

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10
11 By /s/ Robert A. McFarlane
12 Robert A. McFarlane
13 Attorneys for Defendant
14 BRK Brands Inc.

15 Dated: September 9, 2010

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18 MOUNT & STOELKER, P.C.

19
20 By /s/Dan Fingerman
21 Dan Fingerman
22 Attorneys for Plaintiff
23 San Francisco Technology Inc.

24 In accordance with General Order No. 45, Rule X, the above signatory attests that
25 concurrence in the filing of this document has been obtained from the signatory below.

26 Dated: September 9, 2010

27
28 CARROLL, BURDICK & McDONOUGH LLP

29
30 By /s/ Robert A. McFarlane
31 Robert A. McFarlane
32 Attorneys for Defendant
33 BRK Brands Inc.

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35 PURSUANT TO STIPULATION, AND GOOD CAUSE APPEARING THEREFOR,
36 IT IS SO ORDERED

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